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April 14, 2022

By ECF

Honorable Gabriel W. Gorenstein
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

In Re: *New York City Policing During Summer 2020 Demonstrations*,
No. 20 Civ. 8924 (CM) (GWG)
This filing is related to all cases

Your Honor:

I am a Senior Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and I am among counsel for the defense in the above-referenced matter. I write to respectfully seek relief from that portion of Your Honor's order requiring defendants to produce documents related to NYPD disciplinary and IAB files that, in some cases, date back to 2013 and earlier, as well as certain paper-based "49's" from the NYPD's Legal Bureau, as the search for those documents is proving to be overly burdensome and not proportional to the needs of the case. Additionally, defendants additional time, as set forth more fully below, for defendants to produce certain documents related to the *Gray* case, currently due to the plaintiffs on April 15, 2022. Defendants first submitted this request to the Court on Monday, April 11, 2022, but it was denied with leave to renew after obtaining plaintiffs' position on this request. Defendants finally received the last part of plaintiffs' positions late this afternoon.

As this Court and counsel for Plaintiffs are aware, the defendants have been working diligently over the past months to search for, collect, review and produce the tens of thousands of documents that the plaintiffs have requested. As also previously noted, a number of the responsive documents are not digitized, and only reside in archived file boxes. Bridget Fitzpatrick, Managing Attorney of the NYPD's Civil Litigation Unit, and Heidi Grygiel, e-discovery counsel at the NYPD have been searching nearly full-time for the documents, and as explained in the accompanying declaration, the burden is in fact more than they had previously anticipated, and even after putting in many hours, they are still not nearly at the point of locating the documents. They have been searching for responsive documents since well prior to March of this year. These disciplinary documents, which date back more than seven years prior to the protests which are the subject matter of these lawsuits, and approximate 50 49's from previous demonstrations that occurred at least 5 years before the Summer 2020 protests, which may be in as many as 500

separate boxes. Hundreds of 49's and IAB files have already been produced, and these few remaining are proving extremely burdensome to locate and collect. Although they may have some negligible relevance to plaintiffs' *Monell* claims in these cases, defendants maintain that the burden is disproportional to the needs of the case.

Defendants respectfully request a four-week extension, from April 15, 2022 to May 13, 2022, to produce these documents, unless the parties come to an agreement on defendants' burdensomeness assertion. Plaintiffs do not have any objection to an extension to May 13, 2022 for defendants to produce the documents outlined in the Fitzpatrick declaration, aside from the *Gray* documents (discussed below), pending a meet and confer to discuss defendants' burdensomeness objection. The parties will meet and confer regarding the burdensomeness issue, and advise the Court if an agreement has been reached.

With respect to the *Gray* documents, the *Gray* plaintiffs have made numerous requests for various document categories specifically related to NYPD's interactions with the media and/or the press ranging from 2002 to 2020. Searches for some of these documents have been made and are in the process, however, the NYPD is facing a unique issue of having to search for individuals arrested for newsgathering, photographing officers, and videotaping officers, as well as officers disciplined specifically for interfering with news gathering, photographing, and videotaping. While responsive arrest reports, c-summons worksheets, and disciplinary records have already been provided, there is no simple way to search these documents specifically for "press" related arrests. Therefore, additional time is required, as more fully explained in the declaration, to conduct the more tailored searches requested in *Gray*. A number of responsive documents have been located since the date the declaration was prepared, and will be produced shortly.

After conferring on the instant request, the parties came to the following agreement:

1. By next April 25 the City will produce up to date IAB and CCRB files (including updated files) for all 6 incidents at issue in the *Gray* case. To the extent the City asserts it has already produced any of these documents, by April 21 it will provide plaintiffs with bates numbers for those documents.
2. By April 29 the City will produce all documents responsive to the *Gray* RFPs identified in the Fitzpatrick Declaration (specifically, *Gray* RFPs 5, 9, 10, 13, 14-15, 22-29).
3. By the current court-ordered April 15 deadline the City will produce all other previously unproduced documents responsive to the *Gray* RFPs.

The defendants respectfully request that the Court endorse the foregoing agreement.

The aforementioned responses will be updated on the DRI Chart, which although defendants maintain has always been in compliance with the Court's order, as plaintiffs are requesting more information, the chart is being updated accordingly.

Based upon the foregoing, defendants respectfully request an extension of time to produce certain documents in the *Gray* case, and further request that the Court extend defendants' time to produce certain documents responsive to the consolidated requests by four weeks. Thank you for your our consideration herein.

Respectfully submitted,

Dara L. Weiss s/

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Attachment

cc: ALL COUNSEL (via ECF only)